

FILED  
DEC 11 2017  
CLERK, U.S. DISTRICT COURT  
RICHMOND, VA

**Defendants.**

Civil Action No. 3:17CV634–HEH

On December 6, 2017, the Court received a “Relief From Order Rule 60, (b)” motion. (ECF No. 11.) Because the motion was filed within twenty-eight (28) days of the Court’s entry of the November 28, 2017 Memorandum Opinion and Order, the Court


construes the motion as a motion to alter or amend the judgment pursuant to Federal Rule of Civil Procedure 59(e) (“Rule 59(e) Motion”). *See MLC Auto., LLC v. Town of Southern Pines*, 532 F.3d 269, 277–78 (4th Cir. 2008) (citing *Dove v. CODESCO*, 569 F.2d 807, 809 (4th Cir. 1978)).

“[R]econsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly.” *Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998) (internal quotation marks omitted). The United States Court of Appeals for the Fourth Circuit recognizes three grounds for relief under Rule 59(e): “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993) (citing *Weyerhaeuser Corp. v. Koppers Co.*, 771 F. Supp. 1406, 1419 (D. Md. 1991); *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990)). Here, because Plaintiff mailed the initial partial filing fee prior to or on the same day as the Court dismissed the action, the Court will grant the Rule 59(e) Motion (ECF No. 11) to prevent manifest injustice to Plaintiff.

Accordingly, the Court will vacate the November 28, 2017 Memorandum Opinion and Order and will reinstate the action on the Court’s active docket. The Court will continue to process the action.

An appropriate Order shall accompany this Memorandum Opinion.

Date: Dec. 8, 2017  
Richmond, Virginia

 /s/  
HENRY E. HUDSON  
UNITED STATES DISTRICT JUDGE